

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 161A.4(1) and 208.26, the Division of Soil and Water Quality Conservation hereby gives Notice of Intended Action to amend Chapter 1, “Regions of Representation for State Soil Conservation Committee Farmer Members,” Chapter 2, “Operation of State Soil Conservation Committee,” Chapter 3, “Contested Case Proceedings and Practice,” Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” Chapter 11, “Conservation Practices Revolving Loan Fund,” Chapter 12, “Water Protection Practices—Water Protection Fund,” Chapter 20, “Iowa Soil 2000 Program,” Chapter 21, “Water Quality Protection Projects—Water Protection Fund,” Chapter 22, “Soil and Water Resource Conservation Plans,” Chapter 30, “Agricultural Drainage Wells—Alternative Drainage System Assistance Program,” Chapter 40, “Coal Mining,” Chapter 50, “Iowa Abandoned Mined Land Reclamation Program,” and Chapter 60, “Minerals Program,” Iowa Administrative Code.

The proposed amendments change the name of the State Soil Conservation Committee to the State Soil and Water Quality Committee and adopt a definition of “edge-of-field practice.” A mineral mining license being renewed would be valid for two years instead of one year and would cost \$20 instead of \$10.

Any interested persons may make written suggestions or comments on the proposed amendments on or before June 27, 2017. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division’s general waiver provisions.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement 2017 Iowa Acts, House File 617.

The following amendments are proposed.

ITEM 1. Amend **27—Chapter 1**, title, as follows:

REGIONS OF REPRESENTATION FOR STATE SOIL CONSERVATION
AND WATER QUALITY COMMITTEE FARMER MEMBERS

ITEM 2. Amend rule 27—1.1(161A) as follows:

27—1.1(161A) Scope. This chapter delineates the regional boundaries from which the six farmer members of the state soil conservation and water quality committee shall be appointed. The three members representing the mining industry, cities and towns, and tree farming shall be selected from the state at large.

ITEM 3. Amend rule 27—1.2(161A), introductory paragraph, as follows:

27—1.2(161A) Regions of representation. The farmer members of the state soil conservation and water quality committee shall be selected from the northwest, north central, northeast, southwest, south central, and southeast regions of the state.

ITEM 4. Amend **27—Chapter 2**, title, as follows:

OPERATION OF STATE SOIL CONSERVATION AND WATER QUALITY COMMITTEE

ITEM 5. Amend rule 27—2.1(161A) as follows:

27—2.1(161A) Scope. This chapter governs the conduct of business by the state soil conservation and water quality committee. Rule-making proceedings held as part of committee meetings and contested case proceedings involving the committee are consistent with Iowa Code chapter 17A.

ITEM 6. Amend subrule 2.4(3) as follows:

2.4(3) Distribution of agenda. Agenda will be mailed to anyone who files a request with the director. The request should state whether the agenda for a particular meeting is desired, or whether the requester desires to be on the division's mailing list to receive the agenda for all meetings of the state soil conservation and water quality committee.

ITEM 7. Amend rule 27—3.2(17A,161A), definition of "Committee," as follows:

"Committee" means the state soil conservation and water quality committee established at Iowa Code section 161A.4.

ITEM 8. Amend rule 27—10.10(161A) as follows:

27—10.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the state's financial incentive program for soil erosion control. It also establishes standards and guidelines to which the soil conservation districts shall conform in fulfilling their responsibilities under this program.

ITEM 9. Amend rule 27—10.20(161A), definitions of "Committee" and "Soil conservation practices," as follows:

"Committee" or "state soil conservation and water quality committee" means the committee established by Iowa Code section 161A.4 as the policymaking body of the division of soil conservation and water quality.

"Soil conservation practices" means any of the practices which serve to reduce erosion of soil by wind and water on land used for agricultural or horticultural purposes and approved by the state soil conservation and water quality committee.

ITEM 10. Adopt the following **new** definition of "Edge-of-field practice" in rule 27—10.20(161A):

"Edge-of-field practice" means a wetland, bioreactor, or saturated buffer.

ITEM 11. Amend rule 27—10.33(161A), introductory paragraph, as follows:

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the district commissioners or the division of soil conservation and water quality. Appeals to the state soil conservation and water quality committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

ITEM 12. Amend subrule 10.33(3) as follows:

10.33(3) Appeal to the state soil conservation and water quality committee. In those cases where the district, landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to maintain, repair or reconstruct a temporary or permanent practice covered by a maintenance/performance agreement, the district, landowner, or farm operator may appeal the division's decision to the state soil conservation and water quality committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make the appeal to the state committee in writing within 30 days following completion of the division's review.

ITEM 13. Amend subrule 10.60(4) as follows:

10.60(4) Mandatory. The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation and water quality committee.

ITEM 14. Amend rule 27—11.10(161A) as follows:

27—11.10(161A) Authority and scope. These rules provide procedures and standards to be followed by the division of soil conservation and water quality, department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in administering the conservation practices revolving loan fund and the standards and guidelines to which the soil and water conservation districts shall conform in all contracts under this program.

ITEM 15. Amend rule 27—12.10(161C) as follows:

27—12.10(161C) Authority and scope. This chapter establishes procedures and standards to be followed by soil and water conservation districts and the division of soil conservation and water quality of the department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing water protection practices through the water protection fund created in Iowa Code section 161C.4. This account shall be used to establish water protection practices with individual landowners.

ITEM 16. Amend rule 27—12.75(161C) as follows:

27—12.75(161C) Priority watersheds and water quality problems. Practices listed in rule 27—12.73(161C) will be eligible for landowner reimbursement from water protection practices funds only for watersheds and water quality problems designated by soil and water conservation district commissioners and approved by the state soil conservation and water quality committee.

12.75(1) District designation. Districts shall submit to the division the description of high priority watershed(s) or water quality problems within their district to be designated as eligible for practices listed in rule 27—12.73(161C).

12.75(2) State soil conservation and water quality committee evaluation. The state soil conservation and water quality committee shall examine the district submission under 12.75(1) with respect to the following criteria.

- a. The public value and current use of the water resource to be protected.
- b. The nature, extent and severity of the water quality problem to be addressed.
- c. The degree to which the district designation focuses practice application in a manner that will achieve a water quality benefit from the funds available.

12.75(3) Review time limit. The state soil conservation and water quality committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.75(4) Disapproval of designation. In the event of disapproval of district designation, the state soil conservation and water quality committee shall inform the district of the reason for disapproval.

ITEM 17. Amend rule 27—12.85(161C) as follows:

27—12.85(161C) Special practice and cost-share procedures eligibility. Districts may submit requests to establish eligible practices, develop cost-share procedures, experiment with new conservation practices and explore new technologies with approval of the state soil conservation and water quality committee.

12.85(1) District designation. Districts shall submit to the SSCC state soil conservation and water quality committee the description of their intentions, which could include:

- a. Type of practice.
- b. Cost-share rate.

- c. Resource to be protected.
- d. Estimated cost.
- e. Landowner interest.
- f. Technology to be addressed.

12.85(2) *State soil conservation and water quality committee evaluation.* The state soil conservation and water quality committee shall examine the district submission under 12.85(1) with respect to the following criteria.

- a. The public and current use of the resource to be protected.
- b. The nature, extent, and severity of the problem to be addressed.
- c. The degree to which the request focuses practice or technology application in a manner that will achieve a soil erosion or water quality benefit from the funds available.
- d. Whether a specification can be developed by NRCS or DNR for the new technology or practice.

12.85(3) *Review time limit.* The state soil conservation and water quality committee shall approve or disapprove the district designation within 90 days of receipt by the division.

12.85(4) *Disapproval of designation.* In the event of disapproval of district requests, the state soil conservation and water quality committee shall inform the district of the reason for disapproval.

This rule is intended to implement Iowa Code chapters 161A and 161C.

ITEM 18. Amend rule 27—20.10(161A) as follows:

27—20.10(161A) *Authority and scope.* This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the Iowa Soil 2000 Program goal of satisfactorily controlling erosion on all Iowa land. It also establishes standards and guidelines which the soil and water conservation districts will use in fulfilling their responsibilities under this program.

ITEM 19. Amend rule 27—21.10(161A) as follows:

27—21.10(161A) *Authority and scope.* This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing water quality protection projects through the water protection fund created in Iowa Code chapter 161C. These projects will protect the state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants. Water protection fund resources will provide administrative, operational, and personnel support for the projects and funds for management and structural measures to address identified water quality problems.

ITEM 20. Amend subrule 21.20(1), introductory paragraph, as follows:

21.20(1) *Announcement of application opportunities.* The state soil conservation and water quality committee will announce to districts and other interested parties the opportunity to submit applications for projects. The announcement will state:

ITEM 21. Amend rule 27—21.40(161A) as follows:

27—21.40(161A) *Proposal review.* Part 4 establishes the process that the state soil conservation and water quality committee will follow in reviewing the applications submitted; and selecting which, if any, will be funded.

21.40(1) The state soil conservation and water quality committee will give consideration to the following criteria in evaluating the project proposals submitted:

- a. The water resource to be protected.
- b. The nature, extent and severity of water quality issues identified and targeted for correction.
- c. The nature and variety of the proposed project measures.
- d. The level of financial contribution requested for the project.

- e. The cost-effectiveness of the proposed project measures.
- f. Agency, organization and landowner participation.
- g. The public benefits projected.
- h. The likelihood of project success within the projected time frame.

21.40(2) Proposal presentation. The state soil conservation and water quality committee may, at its discretion, ask the project applicant to make a formal presentation concerning the application or provide additional information.

21.40(3) Review assistance. The state soil conservation and water quality committee may receive assistance in the evaluation of project applications from division staff or other agencies.

21.40(4) Negotiation. The state soil conservation and water quality committee may negotiate any part of the proposal with the applicant prior to project selection.

21.40(5) Project selection. Projects selected will be funded on an annual basis. Funding for additional years of the projects will be provided on the basis of satisfactory progress and available funds of the water protection fund.

21.40(6) Notification. The state soil conservation and water quality committee will inform each applicant of the final determination with respect to ~~their~~ the applicant's application.

ITEM 22. Amend rule 27—21.70(161A), introductory paragraph, as follows:

27—21.70(161A) Annual project review, continuation, amendment and termination. Part 7 describes procedures that the state soil conservation and water quality committee will follow to review annual progress for each project and to approve continuation, amend, or terminate them.

ITEM 23. Amend subrule 21.70(1), introductory paragraph, as follows:

21.70(1) Annual review. The state soil conservation and water quality committee and district(s) will review each project annually. Upon completion of the annual review, the committee will inform the district(s) of their findings. Based on their findings, the committee will do one or more of the following:

ITEM 24. Amend rule 27—22.10(161A) as follows:

27—22.10(161A) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the development of soil and water resource conservation plans in all soil and water conservation districts in Iowa and developing a comprehensive soil and water resource conservation plan for the state of Iowa. It establishes standards and guidelines which the soil and water conservation districts will use in fulfilling their responsibilities under this program.

ITEM 25. Amend subrule 22.40(2) as follows:

22.40(2) Approval. The district shall submit their completed plan or amendment to the state soil conservation and water quality committee for approval. If found to meet the content requirements of rule 27—22.30(161A), the state soil conservation and water quality committee shall approve the plan or amendment by motion at their regularly scheduled meeting. The approved plan will be signed by the administrator of the division.

ITEM 26. Amend rule 27—30.10(161A,460) as follows:

27—30.10(161A,460) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee in implementing the agricultural drainage wells — alternative drainage system assistance program. This program provides financial assistance for closing agricultural drainage wells and constructing alternative drainage systems that are part of a drainage district. These rules establish the assistance program, provide for the allocation of assistance funds, and establish procedures and standards for eligibility to receive assistance under the program.

ITEM 27. Amend rule 27—30.31(161A,460) as follows:

27—30.31(161A,460) Other funds. Funds for the agricultural drainage wells—alternative drainage system assistance program may be from moneys available to and obtained or accepted by the division or the state soil conservation and water quality committee from the United States or private sources for placement in the fund.

ITEM 28. Amend paragraph **40.99(1)“c”** as follows:

c. An appeal to the committee may be initiated by the division or a party of record by filing with the administrator, and serving on all parties, a written statement captioned “Notice of Appeal to the State Soil Conservation and Water Quality Committee,” which shall also state the number of the notice or order involved in the hearing and the docket number assigned by the administrator to the contested case proceeding.

ITEM 29. Amend rule 27—50.10(207) as follows:

27—50.10(207) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee, to participate in the federal abandoned mined land and reclamation program as established in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, and Iowa Code chapter 207.

These rules will also provide for the establishment of a state abandoned mined land fund for use in conducting the Iowa abandoned mined land reclamation program, and will also establish authority for the division to request, receive and administer grant moneys for use in the program.

ITEM 30. Amend rule 27—60.10(208) as follows:

27—60.10(208) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee, in implementing the requirements of Iowa Code chapter 208 to ensure reclamation upon completion of mining operations for gypsum, clay, stone, sand, gravel, and other ores or mineral solids, except coal.

Information and forms can be obtained on the department’s Web site or by contacting: Mines and Minerals Bureau, Division of Soil Conservation and Water Quality, Wallace State Office Building, Des Moines, Iowa 50319. Telephone: (515)242-5003 or ~~(515)281-6142~~ (515)281-4246.

ITEM 31. Amend rule **27—60.12(208)**, definition of “Committee,” as follows:

“Committee” means the state soil conservation and water quality committee.

ITEM 32. Amend subrules 60.20(2) to 60.20(4) as follows:

60.20(2) Fees. Licensing and license renewal fees are established by Iowa Code section 208.7 at \$50 for ~~a new~~ an initial license and ~~\$10~~ \$20 for a license renewal.

60.20(3) License term and expiration. A license shall be maintained by the operator until all sites have been properly reclaimed or transferred to another licensed operator.

The initial license shall expire on December 31 of the year in which the license was obtained. A license for renewal shall expire on December 31 of the second year in which the license was issued. Any applications for renewal received within 30 days of the expiration date shall be accepted as renewals for the previous license. New licenses obtained after November 1 shall remain valid for a period to include the next calendar year or years.

60.20(4) License renewal. Any operator who fails to renew the mining license within the 30-day period following the expiration deadline established in subrule 60.20(3) will be required to apply for a ~~new~~ an initial license. Failure to renew a license within 30 days after official notice will invalidate all registrations.

ITEM 33. Amend subrule 60.70(2) as follows:

60.70(2) *Underground mine maps.* The state geologist shall provide the division with copies of each map and map extension received pursuant to Iowa Code section ~~460A.12~~ 456.11.